In the Supreme Court of the United States

OCTOBER TERM, 1969

No. 1511

JOSEPH ROBERT STEVEN BROSSARD, PETITIONER

v.

UNITED STATES OF AMERICA

No. 1512

MICHAEL KENNETH HARRIS, PETITIONER

v.

UNITED STATES OF AMERICA

No. 1521

BRIAN RANDOLPH FLESCH, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITIONS FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES

Each of the cases in which review is sought by the above petitions for certiorari was decided by the court below on the basis of its *en banc* decision in

Ehlert v. *United States*, No. 1383, this Term, in which certiorari was granted on May 4, 1970. Each raises the identical issue presented in *Ehlert*—*i.e.*, whether the alleged maturation of conscientious objector beliefs is, within the language of 32 C.F.R. 1625.2, a circumstance "over which the registrant had no control," so that the local board is required to reopen the registrant's classification when such beliefs are alleged to have crystallized *after* a notice to report for induction has been sent. As the government has acknowledged,[1] the courts of appeals are sharply divided on this question. Resolution by this Court is thus necessary, and the Court has apparently determined that the *Ehlert* case is an appropriate vehicle in which to do so.

In view of these considerations, and since the court below expressly relied on its earlier decision in *Ehlert* in affirming the convictions involved in these cases, we suggest that action on the instant petitions should be deferred until after the Court has rendered a decision on the merits in *Ehlert*.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

MAY 1970.

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[1] See our petition for a writ of certiorari in *United States* v. *Holmes*, No. 1311, this Term.

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